

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BYONG UN YI,

Plaintiff,

-vs-

GREEN & RED PRODUCE, INC., and  
MIAE PARK a/k/a MEE A. PARK,

Defendants.

**14 CIV. 3002 (GHW)**

**ANSWER CONTAINING  
AFFIRMATIVE DEFENSES**

ECF CASE

**DEFENDANTS GREEN & RED PRODUCE, INC., and MEE A. PARK BY THEIR  
ATTORNEYS, THE LAW OFFICES OF JONATHAN Y. SUE, PLLC  
FOR THEIR ANSWER HEREIN:**

1. Deny each and every allegation contained within the paragraphs of the complaint herein: 10; 11 except admit Green & Red Produce, Inc., is a New York corporation; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 24; 25; 26; 27; 28; 29; 30; 32; 34; 35; 36; 39; 41; 42; 43; 45; 46; 48; 51; 55; 58; 60; 61; 64; 66; 67; 70 and the *ad damnum* paragraph.

2. Deny knowledge or information sufficient to form a belief as to each and every allegation contained within the paragraphs of the complaint herein: 1; 2; 3; 4; 5; 6; 7; 8; 9; 22; 23; 31; 33; 37; 38; 40; 44; 47; 49; 50; 52; 53; 54; 56; 57; 59; 62; 63; 65; 68; and 69.

**AS AND FOR A FIRST SEPARATE AFFIRMATIVE COMPLETE AND/OR  
PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

3. That, the plaintiff's complaint fails to set forth facts sufficient upon which to base a cause of action against the defendants.

4. As a result of the foregoing, the plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A SECOND SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

5. Plaintiff is estopped from bringing this action.
6. As a result of the foregoing, plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A THIRD SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

7. Plaintiff is barred from bringing this action based on the doctrine of Laches.
8. As a result of the foregoing, plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A FOURTH SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

9. Statute of limitations.
10. As a result of the foregoing, plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A FIFTH SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

11. Defendants at all relevant times complied with all applicable statutes and laws and therefore, plaintiff cannot recover punitive or liquidated damages.
12. As a result of the foregoing, plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A SIXTH SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

13. Plaintiff is an exempt employee and therefore not subject to minimum wage,

spread of hour and overtime wage regulations as defined in the federal Fair Labor Standards Act of 1938, as amended 29. U.S.C. §§ 201, *et seq.* and the New York Labor Law §§ 190, *et seq.*

14. As a result of the foregoing, plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A SEVENTH SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

15. Plaintiff's termination was based on reasonable factors other than age.

16. As a result of the foregoing, plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A EIGHTH SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

17. This Court does not have jurisdiction over Plaintiff's causes of action under New York City Human Rights Law, N.Y. Admin. Code §§ 8-101, *et seq.*, as the appropriate venue for actions arising under New York City Human Rights Law is the Human Rights Commission.

18. As a result of the foregoing, plaintiff's complaint must be dismissed as a matter of law.

**AS AND FOR A NINTH SEPARATE AFFIRMATIVE COMPLETE AND/OR PARTIAL DEFENSE, DEFENDANTS ALLEGE:**

19. Defendants reserve the right to assert additional defenses as plaintiff's claims are clarified in the course of this litigation.

**WHEREFORE**, Defendants respectfully demand judgment as follows:

(a) dismissing plaintiff's complaint with prejudice, together with the costs and disbursements of this action and reasonable attorneys' fees;

(b) such other and further relief in favor of Defendants as this Court may deem just and proper.

Dated: New York, New York  
May 15, 2014

LAW OFFICES OF JONATHAN Y. SUE, PLLC

/s/ Jonathan Sue  
By: Jonathan Y. Sue  
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